

REMARKS

This Amendment is submitted in response to the final Office Action of June 2, 2005 and the Advisory Action of August 18, 2005. Claims 1-8 and 29-47 are pending in this application. Previously, original claims 9-28 were cancelled in view of a restriction requirement. In Applicants' previous Amendment After Final Rejection, claim 1 has been amended to incorporate claim 39 therein. This change is again reflected in this Amendment. Claim 39 was canceled without prejudice and claim 40 was amended to depend from claim 1. In the present Amendment, Applicants present new claims 48-51 for consideration. Applicants hereby reserve the right to present and further prosecute the previously presented claim 1 in a continuation application. Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request reconsideration of the claims in view of the remarks presented below.

Claims 1-8 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,660,021 to Palmer et al. ("the Palmer patent"). In view of the amendment of claim 1 to incorporate dependent claim 39 therein, it is submitted that the Palmer patent should be withdrawn as an anticipatory reference to claims 1-8. It is noted that the particular structure recited in dependent claim 39 is not found in the Palmer patent. The Palmer patent simply does not show a distal strut attached to the circumferential member at the second bending region which has a free end positioned substantially near the longitudinal axis extending through the center of the circumferential member when placed in the expanded position. The Examiner has identified strut 906 as the distal strut in rejecting the pending claims. This strut 906 is shown in figure 32 of the Palmer device which has been reproduced at page 2 of the Office Action. However, this figure shows that this strut does not have a free end, but rather, has a distal end which is clearly attached to other struts which cooperate to form the remainder of the cage. Also, the drawing actually shows strut 906 extending away from the central longitudinal axis of the portion of the cage body identified as the circumferential member by the Examiner. For at least these reasons, the basic structure of the recited in claim 1 is not found in the Palmer patent. Accordingly, Applicants respectfully request the Examiner to withdraw the Palmer patent as an anticipatory reference to claims 1-8.

Claims 37-38 and 42-44 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,245,089 to Daniel et al. ("the Daniel patent"). With respect to independent claims 37 and 42, it is noted that the presently claimed invention requires the guide wire to extend through the inlet opening of the circumferential member and includes structure which maintains the guide wire substantially centered when the cage is placed in the expanded position. The embodiment of Figure 21B in the Daniel patent, relied upon by the Examiner in rejecting these claims, simply fails to disclose such this structure. Reference is made to Column 15, lines 46-53 of the Daniel patent which read as follows:

By providing tails 358 and 360, frame 354 is directly connected to wire 346. However, tails 358 and 360 are provided so that the point of attachment of frame 354 to wire 346 is located several millimeters proximal of hoop-shaped portion 356. This provides some additional structural integrity to frame 354, **but still allows frame 354 to substantially float about wire 346 in the region of hoop-shaped frame portion 356.** (Emphasis added)

These tails 358 and 360 do not help to center the wire 346 relative to the hoped- shaped frame portion 356. Rather, this embodiment, which is similar to the embodiment of Figure 21A of the Daniel patent, allows the wire 346 to "substantially float" within hoop 342 (Col. 15, lines 19-22). This allows the guide wire to move independently within this hoop-shaped frame portion. In this regard, this embodiment of the Daniel patent actually teaches away from a structure which maintains a guide wire centered within the hoop. For at least these reasons, the Daniel patent lacks the specific structure for maintaining the guide wire centered within the expanded circumferential member as recited in the above-identified claims. Applicants respectfully request the Examiner to withdraw the Daniel patent as an anticipatory reference to these claims.

Claims 29-41 and 45-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Palmer patent in view of the Daniel patent. With respect to independent claim 29, the Palmer patent does not have a distal strut which is coupled to the guide wire. The structure in the Palmer patent identified as the distal strut by the Examiner is not attached to the guide wire, but rather to, other structural elements forming the cage. Additionally, the embodiment of the Daniel patent relied upon by the Examiner clearly does not have a distal strut. For at least this reason, the combination of the Palmer patent with the Daniel patent does not and cannot achieve the particular structure recited in the above-identified claims. With respect to independent claim

37, as is addressed above with regard to the Daniel patent, this claim requires the guide wire to be substantially centered through the circumferential member when placed in the expanded position. Neither the Palmer patent, nor the embodiment of the Daniel patent relied on by the Examiner, disclose or teach such a structure when combined together. Therefore, the combination of these two references fails to achieve the particular structure recited in claim 37. Accordingly, Applicants respectfully request the Examiner to withdraw the obviousness rejection directed to claims 29-41 and 45-47.

New claims 48-51 recite a structure in which the circumferential member is adapted to be in sealing contact with the body vessel to create a single inlet opening to capturing embolic debris. In this aspect of the presently claimed invention, the circumferential member contacts the wall of the body vessel to prevent the formation of passages between the deployed filtering device and the body vessel. Figure 33 of the Palmer patent depicts the embodiment relied on by the Examiner in an expanded position within a body vessel. However, this portion of the cage which the Examiner has identified as the circumferential member does not extend across the body vessel when expanded. In this regard, the inlet opening created by this particular structure is not in sealing contact with the body vessel to create a single inlet opening to capturing embolic debris as recited in these new claims. Applicants submit that these claims are patentably distinct from the cited prior art.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

REQUEST FOR TWO-MONTH EXTENSION OF TIME

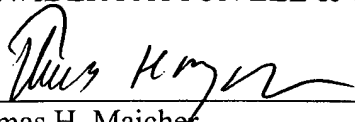
Applicants respectfully request a two-month extension of time to respond to the Office Action dated June 2, 2005 in the above-identified application.

The requisite fee of \$ 450.00 pursuant to 37 C.F.R. §1.136(a) is enclosed herewith.

Please charge any additional fee or credit any overpayment to our Deposit Account
No. 06-2425. A duplicate copy of this paper is enclosed.

Respectfully submitted,

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